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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/675,310	09/29/2003	Klaus Heilmann	2565/112	5354
26646	7590	12/08/2004	EXAMINER	
KENYON & KENYON ONE BROADWAY NEW YORK, NY 10004			KIM, SUN U	
		ART UNIT		PAPER NUMBER
		1723		
DATE MAILED: 12/08/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/675,310	HEILMANN ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	John Kim	1723

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 13 September 2004.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-126 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 68,82,96,109 and 120 is/are allowed.
- 6) Claim(s) 1-67,69-81,83-95,97-108,110-119 and 121-126 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 29 September 2003 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. 09/464,605.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>9/13/04</u> .	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____

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1. Claims 55-64, 66-67, 69-78, 80-81, 83-92, 94-95, 97-105, 107-108, 110-117, 119 and 121-126 are rejected under 35 U.S.C. 102(b) as being anticipated by German Patent No. 3435883 (hereinafter referred to as GP '883). GP '883 teaches a dialyzer comprising a casing (12) containing hollow fibers and an end cap (24) attached to the casing (10) wherein the end cap (24) comprises a blood inlet channel (28) in axial direction relative to hollow fibers and curved members (50) arranged circumferentially and equidistant from each other to impart circular motion (see figures 1-2).
2. Claims 65, 79, 93, 106 and 118 are rejected under 35 U.S.C. 103(a) as being unpatentable over GP '883 as applied to claims 55, 69, 83, 97 and 110 above, and further in view of Forster et al. GP '883 teaches a dialyzer as described in above paragraph 4. Claims 65, 79, 93, 106 and 118 essentially differ from the apparatus of GP '883 in reciting that the member is integrally formed with the end cap. Forster et al teach that members (288) are integrally formed with the end cap (260) for providing structural support for the filter element while also providing channels for the transfer of fluid (see figures 6-7, 17-18; col. 6, lines 15-29; col. 9, lines 11-39). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the members of GP '883 to be integrally formed with the end cap to provide structural support for the filter element as suggested by Forster et al.
3. Claims 68, 82, 96, 109 and 120 are allowed.
4. Applicant's arguments with respect to claims 1-126 have been considered but are moot in view of the new ground(s) of rejection. Applicants argue that the guiding means (50) in Heilmann et al. are spaced apart from the interior chamber of the end cap. Therefore, these guiding means (50) do not extend from the interior chamber of the end cap as recited in claims

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55, 69, 83, 97, 110 and 121, but rather extend from the flat disk (56) and these guide means (50) are not defined by the interior chamber of the end cap as recited in claim 124, but rather defined by the flat disk (56). However, the flat disk (56) having guiding means (56) located on a surface facing the inlet side (28) of the end cap (30) is located within the interior chamber and the guiding means (50), hence, extends from the interior chamber.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Kim whose telephone number is (571) 272-1142. The examiner can normally be reached on weekdays from 8:30 A.M. to 5:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda Walker, can be reached on (571) 272-1151. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
John Kim  
Primary Examiner  
Art Unit 1723

J. Kim  
December 6, 2004